

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>  <b>v.</b>  <b>ERIC CLARK,</b> <b>Defendant.</b>	<b>CRIMINAL ACTION</b> <b>No. 04-184</b>
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**MEMORANDUM & ORDER**

**Katz, S.J.**

**MAY 24, 2006**

On May 21, 2004, the defendant pled guilty to one count of attempting to carry a concealed dangerous weapon on an aircraft, a Class C felony. The court sentenced the defendant to a term of five years of probation. On December 20, 2005, the Probation Office filed a Petition for Revocation Action.

**Findings of Fact**

1. On September 8, 2004, the defendant was sentenced by this court to a term of five years' probation for attempting to carry a concealed weapon on an aircraft. This court also imposed the general terms and conditions of probation which included, among others, the two following conditions: (1) that the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer (Standard Condition #3); and (2) that the defendant shall work

regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reason (Standard Condition #5).

2. On September 6, 2005, following the defendant's positive urinalysis test for cocaine, this court modified the conditions of probation to include drug testing and treatment at the direction of the probation officer.

3. The probation officer then instructed the defendant to attend an evaluation intake meeting with Lehigh Valley Drug and Alcohol Services in Allentown, Pennsylvania. The defendant failed to appear for scheduled appointments on September 19, October 14 and October 21, 2005. The defendant finally reported for his intake appointment on November 9, 2005, two months after having been instructed to so report.

4. On November 18, 2005, the probation officer directed the defendant to complete a job search log and to report in person with the completed document on November 29, 2005. The defendant failed to report as directed. The defendant was then directed to report on December 6, 2005, with his completed log, and he again failed to report as directed. The defendant was then directed to report on December 19, 2005 with his completed log, and he again failed to report as directed. The defendant's failure to report as directed resulted in the inability of the probation

officer to test the defendant for illegal drug use and monitor his effort to find employment.

5. Since this court placed the defendant on probation on September 8, 2004, he has failed to secure full-time employment and has not made an even marginally adequate effort to do so. At no time has the probation officer excused the defendant from seeking employment.

### **Conclusions of Law**

1. The defendant violated the general terms of his probation as set forth above. Specifically, the defendant violated Standard Condition #3 by not following the instructions of his probation officer and Standard Condition #5 by failing to find full time employment or make a reasonable effort to do so.

2. The defendant's violations are Grade C violations.

An appropriate Order follows.

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**ORDER**

AND NOW, this 24<sup>th</sup> day of May, 2006, upon consideration of the Petition for Revocation of Probation, the Government's Proposed Findings of Fact and Conclusions of Law, and after a hearing, it is hereby **ORDERED** as follows:

1. Defendant's probation is **REVOKED**.
2. Defendant is committed to community confinement for a term of ninety (90) days. Defendant shall surrender when notified by the Probation Office that a facility is available for him.
3. No further period of probation is imposed.

**BY THE COURT:**

/s/ **Marvin Katz**

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**MARVIN KATZ, S.J.**